



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R3–ES–2018–0037; FXES11130300000–189–FF03E00000]

**Final Environmental Impact Statement on MidAmerican Energy Company’s
Habitat Conservation Plan for Midwestern Bat and Bird Species in Iowa**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: In accordance with the Endangered Species Act, as amended, and the National Environmental Policy Act, we, the U.S. Fish and Wildlife Service, announce the availability of the final environmental impact statement and draft record of decision analyzing the impacts of issuance of an incidental take permit (ITP) for implementation of the MidAmerican Energy Company’s *Final Habitat Conservation Plan MidAmerican Energy Company Iowa Wind Energy Project Portfolio* (HCP). Our decision is to issue a 30-year ITP for implementation of the HCP, which authorizes incidental take of the federally endangered Indiana bat, federally threatened northern long-eared bat, federally

protected bald eagle, the little brown bat, and tricolored bat under the Endangered Species Act.

DATES: We will finalize the record of decision and issue a permit no sooner than 30 days after the publication of this notice of availability in the *Federal Register*.

ADDRESSES: Electronic copies of the documents this notice announces will be available online in Docket No. FWS–R3–ES–2018–0037 at <http://www.regulations.gov>. Paper copies will be available at 22 county libraries in Iowa. Additional electronic copies of the documents as well as the list of libraries with paper copies will be available at <https://www.fws.gov/midwest/rockisland/te/MidAmericanHCP.html>

FOR FURTHER INFORMATION CONTACT: Amber Schorg, Fish and Wildlife Biologist, or Kraig McPeck, Illinois-Iowa Ecological Services Office Project Leader, Illinois-Iowa Field Office, by U.S. mail at 1511 47th Ave, Moline, IL 61265, or by phone at 309–757–5800.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the availability of several documents related to an incidental take permit application under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The final environmental impact statement (EIS) and draft record of decision (ROD) were developed in compliance with the agency decision-making requirements of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*),

and are based on the habitat conservation plan as submitted by MidAmerican Energy Company (applicant). We described, fully evaluated, and analyzed all seven alternatives in detail in our 2019 final EIS. The draft ROD documents the rationale for our decision. The final ROD will be available on the Service website no sooner than 31 days after this notice. In addition to this notice, the Environmental Protection Agency (EPA) is publishing a notice announcing the EIS, as required under the Clean Air Act, section 309 (42 U.S.C. 7609; see *EPA's Role in the EIS Process* below).

Proposed Action

Our proposed action is to issue an ITP to the applicant under section 10(a)(1)(B) of the ESA, (16 U.S.C. 1539(a)(1)(B)), that authorizes incidental take of the federally endangered Indiana bat, federally threatened northern long-eared bat, and federally protected bald eagle, as well as the little brown bat and tricolored bat, from the applicant's maintenance and operation of its wind power generation facilities in Iowa. Little brown bat and tricolored bat are not federally protected, but they are currently being evaluated for protection. Additionally, 50 CFR 22.11 provides for the permitting of eagles under ESA permits. The applicant has chosen to include these as covered species and treated them as if they were ESA listed.

MidAmerican Energy Company is one of the largest electric utilities in Iowa, and operates over 22 projects with more than 4,040 MW of installed energy generation capacity. MidAmerican Energy Company's ability to serve its customers depends on the predictable operation and maintenance of its wind power facilities. The plan area for the HCP includes areas where authorized incidental take would occur and conservation

measures would take place, covering all of Iowa. The applicant requested a term of 30 years from the date of ITP issuance to include the operational life of the covered projects. The applicant will implement minimization and mitigation measures to offset impacts to the covered species according to the HCP.

The applicant has agreed to include the following minimization measures:

- Feathering turbine blades at all projects below manufacturer's cut-in speeds at night for the entire active season for bats. Feathering below cut-in speeds is a way of minimizing the rotational speed of turbine blades when not producing energy.
- Minimizing the rotational speed of turbine blades until wind speeds reach 5.0 meters per second when temperatures are above 50 degrees Fahrenheit from mid-July through September at four facilities with the highest risk to covered bat species.
- Removing carrion and increasing landowner education efforts to reduce attractants to bald eagles.
- Carrying out a fatality monitoring and adaptive management program to adjust conservation measures if needed to ensure compliance with the ITP and HCP.

The mitigation measures include the following commitments:

- Protecting and restoring a minimum of 1,309 acres of bat habitat and 42 artificial structures for bat use.

- Protecting and restoring additional bat habitat up to a total of 3,200 acres, and 50 artificial structures, if needed, to compensate for projected future take based on the monitoring program results.
- Providing funding to manage and monitor all mitigation lands.
- Providing funding for conservation activities to immediately benefit bald eagles to mitigate for take of bald eagles.
- Providing mitigation funding in advance of take so that mitigation implementation stays ahead of impacts to covered species.

Background

The applicant has applied for an ITP under the ESA that would authorize incidental take of four bat species and bald eagles and would be in effect for a period of 30 years. The proposed incidental take of bats and eagles would occur from lawful, non-Federal activities from the applicant's operation of existing wind energy generation facilities within the permit area. The HCP permit area includes lands used for operations of 22 projects in Iowa where the applicant has existing wind power facilities. The plan area includes the permit area, and also the rest of Iowa, to include all areas that may be influenced by the HCP, including mitigation activities. The final EIS considers the direct, indirect, and cumulative effects of implementing the HCP, including measures to minimize and mitigate such impacts to the maximum extent practicable.

Section 9 of the ESA and its implementing regulations prohibit the "take" of animal species listed as endangered or threatened. (16 U.S.C. 1538) *Take* is defined under

the ESA as to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or to attempt to engage in such conduct”(16 U.S.C. 1532(19)). Under section 10(a)(1)(B) of the ESA, the Service may issue permits to authorize incidental take of listed species. *Incidental take* is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity.

Section 10(a)(1)(B) of the ESA contains provisions for issuing incidental take permits to non-Federal entities for the incidental take of endangered and threatened species, provided the following criteria are met: (a) The taking will be incidental; (b) the applicant will minimize and mitigate, to the maximum extent practicable, the impact of such taking; (c) the applicant will develop an HCP and ensure that adequate funding for the plan will be provided; (d) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (e) the applicant will carry out any other measures that the Secretary of the Interior may require as being necessary or appropriate for the purposes of the HCP. An applicant may choose to cover non-listed species in the HCP, and these species will be treated as ESA-listed species.

On August 31, 2018, we published a *Federal Register* notice announcing the availability for public review of a draft EIS and requested public comment on our evaluation of the potential impacts associated with issuance of an ITP for implementation of the HCP and to evaluate alternatives (83 FR 44652). In September and October 2018, we held two public hearings on the draft document, one in Ankeny, Iowa, and one via online web conference. The public comment period closed on October 15, 2018.

We received 93 comments in total: 87 through *regulations.gov*, 5 comments via email, 2 comments during the in-person public hearing, and 1 through the U.S. mail. The final EIS provides responses to those comments in Appendix E.

Decision

We intend to issue a final ROD with respect to whether we issue an ITP allowing the applicants to implement the *Iowa Wind Energy Project Portfolio Habitat Conservation Plan*. Our decision will be based on a thorough review of the alternatives and their environmental consequences. A decision to issue an ITP would be based on the commitment by MidAmerican Energy Company to fully implement the HCP, including minimization and mitigation measures, monitoring and adaptive management, and to fully comply with all terms and conditions in the ITP.

A final ITP decision will be made no sooner than 30 days after the publication of this notice of availability and completion of the record of decision.

EPA's Role in the EIS Process

In addition to this notice, EPA is publishing a notice in the *Federal Register* announcing final EIS for MidAmerican Energy Company's *Iowa Wind Energy Project Portfolio Habitat Conservation Plan*, as required under the Clean Air Act, section 309. The EPA is charged with reviewing all Federal agencies' EISs and commenting on the adequacy and acceptability of the environmental impacts of proposed actions in EISs. The EPA also serves as the repository (EIS database) for EISs that Federal agencies prepare. All EISs must be filed with EPA, which publishes a notice of availability on

Fridays in the **Federal Register**. For more information, see <https://www.epa.gov/nepa>. You may search for EPA comments on EISs, along with EISs themselves, at <https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search>.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C.1539(c)) and its implementing regulations (50 CFR 17.22) and the NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR part 46).

Lori Nordstrom

Acting Regional Director

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